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SERVICE DATE – MAY 20, 2019

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 290 (Sub-No. 394X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN  
AURORA, PORTAGE COUNTY, OHIO

Decided: May 17, 2019

On November 13, 2017, Norfolk Southern Railway Company (NSR) and Cleveland Commercial Railroad Company, LLC (CCR), jointly filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service for NSR to abandon, and for CCR to discontinue service over, approximately 5.5 miles of rail line between milepost RH 22.0 and milepost RH 27.5 in Aurora, Portage County, Ohio (the Line). Notice of the exemptions was served and published in the Federal Register on December 1, 2017. (82 Fed. Reg. 57,021).<sup>1</sup> The exemptions became effective on January 2, 2018.

By decision served on December 28, 2017, the Board imposed on NSR's abandonment a historic preservation condition under Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108, which requires NSR to (a) retain its interest in and take no steps to alter the historic integrity of all sites, buildings, structures, and objects within the project right-of-way that are eligible for listing or listed in the National Register of Historic Places (National Register) (generally, 50 years old or older) until the Section 106 process of the NHPA has been completed; (b) report back to the Board's Office of Environmental Analysis (OEA) regarding any consultations with the Ohio State Historic Preservation Office (SHPO), any other Section 106 consulting parties, and the public; and (c) not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

In a Supplemental Final Environmental Assessment dated May 8, 2019, OEA notified the Board that OEA, the SHPO, NSR, and other Section 106 consulting parties executed a Memorandum of Agreement (MOA) that was negotiated to comply with the Section 106 process. OEA states that the filing of this MOA with the Advisory Council on Historic Preservation completes the Board's compliance responsibilities under Section 106 of the NHPA. For this reason, OEA recommends removing the historic preservation condition imposed in the December 28, 2017 decision.

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<sup>1</sup> The notice embraced Cleveland Commercial Railroad—Discontinuance of Lease & Operation Authority—in Aurora, Portage County, Ohio, Docket No. AB 1257X.

Accordingly, based on OEA's recommendation, this proceeding will be reopened and the previously imposed Section 106 historic preservation condition will be removed.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the Section 106 historic preservation condition imposed in the December 28, 2017 decision is removed.
3. This decision is effective on its date of service.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.